

I. INTRODUCTION

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In 1973, the Alaska State Legislature enacted Alaska's Limited Entry Act (AS 16.43) for commercial fisheries. The act established a new agency, the Commercial Fisheries Entry Commission (CFEC), to administer a program regulating entry into commercial fisheries under state jurisdiction. Limited entry was implemented in most of the salmon fisheries in 1974. By the end of 2004, permanent limited entry permits had been issued in 65 commercial fisheries:¹ 26 salmon fisheries, 19 herring fisheries, 9 crab fisheries, 5 sablefish fisheries, 3 shrimp fisheries and 3 dive fisheries (sea urchin, sea cucumber, and geoduck). In some limited fisheries, more than one type of permit was issued to help contain increases in fishing power. Some permits constrain the amount of gear that can be used and some permits constrain the length of the vessel. To date, a total of 79 permit types have been issued in the 65 limited fisheries.

A legal prerequisite of the Limited Entry Act was that permits could not be locked in the hands of those who were originally issued them (i.e., "initial issuers").² After much study and debate, the legislature chose free transferability as the method for allowing permit holders to enter and exit from the fisheries.

Free transferability allows the transfer of permits from parents to their children, and allows family members to inherit a permit upon the death of a permit holder. It allows persons to enter and exit fisheries at times opportune to them, and eliminates the need for an expensive and time-consuming bureaucratic process to handle permit reallocation. Free transferability facilitates permit exchange and promotes overall efficiency. Many

¹ By the end of 2004, maximum number regulations have been adopted for 66 fisheries. No permanent entry permits have been issued in the Prince William Sound sablefish pot gear fishery, and therefore the fishery does not appear in this report. In addition, 2 fisheries are under a vessel limited entry program, and are also not reported herein.

² Note that initial issuance refers to the issuance of a new permit whenever it occurred. Because some applicants are difficult to classify under a hardship ranking system, a final determination of their standing may come only after an extensive hearing and adjudicatory process. In other instances, permits have been issued as lawsuits brought against the commission are resolved. Thus, some permits have been issued several years after the main body of permits were issued for a given permit type.

other transfer options were considered but were found lacking with respect to these criteria.

In 1983, the Alaska Supreme Court ruled on the *State of Alaska v. Ostrosky*,³ which challenged the constitutionality of the Limited Entry Act, particularly the free transferability provisions. The court upheld the constitutionality of both the Act and of free transferability and also affirmed the legislative objectives in adopting the transferability option. The decision was subsequently allowed to stand by the United States Supreme Court when it dismissed the Ostrosky appeal in *Ostrosky v. State*.⁴

Despite the benefits of free transferability, many persons remain concerned that permit transfers might result in undesirable consequences with regard to the distribution of permits. There is a concern that permits will leave the state, or that permits will disappear from isolated fishing communities which are local to a limited fishery, thereby eroding the economic base. The legislature has twice ordered studies of transferability options, first upon initial passage of the Act,⁵ and again in 1980.⁶

Because of concerns about free transferability, CFEC has produced this report so that the legislature, the administration, and other interested parties will be kept accurately apprised of the facts.

This edition covers the 65 limited fisheries for which permanent permits have been issued in the period 1975 through 2004. It contains detailed information on transfer incidence, the initial geographic distribution of permit holders, changes in the distribution of permits due to permanent transfers of permits and migration of permit holders, and the year-end

³ *State of Alaska v. Ostrosky*, 667 P.2d 1184 (1983).

⁴ Appeal dismissed for want of a substantial federal question, 467 U.S. 1201, 104 S.Ct. 2379, 81 LEd. 2d 339 (1984).

⁵ AS 16.43.370(b): “The commission shall study alternative methods of permit transferability and report its findings and recommendations to the legislature before January 15, 1975.” The resulting report was the “Report to the Legislature on Entry Permit Transfers,” CFEC, January 15, 1975.

⁶ Rodgers, G. and J. Kreinheder, “Socioeconomic Analysis For Fishery Areas and Census Divisions.” Prepared for the Limited Entry Study Committee of Alaska State Legislature, January 21, 1980.

2004 geographic distribution of permit holders. Extensive information is also provided on the age distribution of permit holders, age differences between transferors and permit recipients, rates and characteristics of intra-family and business partner transfers, permit market values, and permit acquisition and financing methods.

